IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

NEWPORT NEWS DIVISION

GAVIN GRIMM,

Plaintiff,

v. : CASE NO.:

GLOUCESTER COUNTY SCHOOL : 4:15-cv-54

BOARD,

Defendant.

Deposition of MELINDA PENN, M.D.

Richmond, Virginia

Thursday, March 14, 2019

10:15 a.m.

Job No.: 234511

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Reported by: Helen B. Yarbrough, RPR, CCR

EXHIBIT

B

A As a pediatrician, yes; but in pediatric endocrinology I typically am not involved in that unless there's questions.

Q So when you were a pediatrician, did you recognize the sex of an infant at birth based upon the appearance of external genitalia?

A Yes. We would examine patients and describe the appearance of the genitalia.

Q And then you would designate the infant's sex based on that external genitalia, correct?

A Yes.

Q If there is a question concerning the sex of an infant at birth, can medical providers perform a chromosomal testing?

A Yes, you can perform that. There's a number of different tests that we'll do if there's question about the appearance of the genitalia.

Q And what are those tests?

A We'll perform chromosomes; we'll do investigations to look at the internal anatomy in genitalia; we'll perform hormone levels.

Q And when you say "looking at the internal anatomy," does that mean the reproductive organs?

A Yes.

Q And the chromosomal testing, that would be the XX chromosome or the XY chromosome?

A Yes.

Q And if the infant has an XX chromosome, that's recognized as a biological basis for a female?

A Not always.

Q In what cases would it not be?

A There are times when you can have a portion of the Y be present in an XX individual. There are times that you have an XY individual who won't respond to testosterone and therefore would look very feminine on the outside. So it's not always clear.

Q And if there is an XX chromosome without a portion of a Y, does -- is that the biological basis for a female?

A In general, yes.

they're not responding to the testosterone, so their external genitalia is very feminine, but they wouldn't have the internal female uterus or ovaries.

Q And what would the medical diagnosis for that be?

A Androgen insensitivity.

Q And how often does that occur?

A I would have to review for specifically -- specific numbers.

Q How often did you see it in your practice?

A I've seen it about three times.

Q You agree that choosing a gender identity does not cause any chromosomal changes in the body, correct?

A Yes.

Q And a person's innate sense of belonging to a particular gender does not cause any biological changes in the body?

A That's correct.

Q In paragraph 20 of your report, you

state that, "Gender identity is deeply rooted early in life."

Do you see that?

A Yes.

Q What is that opinion based on?

A There's -- many pediatric patients have very distinct gender identity and identify with a specific gender at a young age as a normal part of pediatric development.

Q And when you say it's rooted early in life, does that mean in both gender identity that is consistent with the sex recognized at birth and inconsistent with the sex recognized at birth?

A It can be, yes.

Q Have there been any empirical studies or data that identify when a child has a sense of gender identity?

A I'm not aware. There has been research describing it, but I'm not sure of the specifics.

Q DSM-V --

A Yes.

Q -- describes gender dysphoria; is that

correct?

A Yes.

Q And what, to your understanding, is gender dysphoria?

A That's the distress that a patient or a person experiences when their gender identity doesn't align with the sex assigned at birth.

Q Okay. And you're aware that the DSM-V defines sex as it refers to the biological indicators of male and female such as in sex chromosomes, gonads, sex hormones, and nonambiguous internal or external genitalia?

A Yes.

Q And you agree with that, correct?

A Yes.

Q So the treatment that you provide as a pediatric endocrinologist, is that to treat gender dysphoria, or is it to treat a transgender individual?

A Yes, it's to treat the gender dysphoria that occurs in transgender individuals.

Q So your practice, medical practice,

seeks to medically treat a transgender individual's distress?

A Yes. We're helping to decrease the distress and the dysphoria.

Q Do you need a break?

A Yes.

(A recess was taken.)

BY MR. CAPPS: (Continuing)

Q In your practice, do you diagnose gender dysphoria?

A I rely on the mental health providers that I work with to do the official diagnosis, but I review with the patients why they're seeking hormone therapy.

Q Is there any objective test that can diagnose gender dysphoria?

A Not that I'm aware of.

Q So a diagnosis would be based on a conversation with the transgender individual?

A There are guidelines and criteria that you have to meet for the diagnosis of gender dysphoria, and that's with discussion by the

patient.

Q But it's based upon the subjective information that the patient gives you; is that correct?

A Yes.

Q Do you agree that not all transgender individuals express distress in their gender identity choice?

A Yes.

Q Do you dispute the DSM-V statement that for natal adult males, the prevalence ranges for gender dysphoria range between .005 percent to .014 percent of natal adult males?

A It sounds appropriate. I'm not sure exactly what they are referring to for this data.

Q How about the prevalence ranges for natal females range from .002 percent to .003 percent? Do you dispute that data?

A Again, I don't know where it comes from and how that research is done, but it sounds appropriate.

MR. BLOCK: Could she be provided a

give hormones that stop the production of pubertal hormones in the body. And then I can also provide hormones that would promote the development of secondary sex characteristics that align with the person's gender identity.

Q Do you provide any medical treatment related to any transgender individual's social transition?

A Can you restate it?

Q Do you, in your treatment of transgender individuals, provide a treatment plan that includes social transition?

A Not directly. We discuss the social transition and what they've done with their social transition, but I don't directly.

Q So you're not involved in creating treatment plans related to a transgender individual's social transition related to their gender identity?

A No. I do assist with some of the paperwork that they require to do name change and gender change, and some of the legal documents

require a medical provider to sign off, and I assist with that.

Q But on a day-to-day basis, do you outline a treatment plan that relates to a transgender individual's social transition?

A No.

Q Do you document a patient's participation in social transition as a part of your medical treatment of transgender individuals?

A I typically discuss with the patients what social transitions have occurred, and we discuss family support, school support, and friends' support, and that sort of information.

Q Do you agree that transgender patients also have an alternative medical plan that would involve just counseling?

A The treatment for transgender individuals varies greatly, and some of my patients ultimately have done well with counseling and just social transition.

Q Have you had any patients participate in just counseling without engaging in social

sex-separated facilities in line with their gender identity. Do you see that?

A Yes.

Q The social transition that you're talking about, is that part of a medical treatment plan?

A It's not typically a part that I'm involved in, because most of the patients are coming to see me at the onset of puberty.

Q And whose plan, if anybody's, would that be -- that social transition be a part of?

A It's oftentimes something that's discussed with the mental health provider and the families.

Q And the social transition plan is used to address the treatment of gender dysphoria; is that correct?

A Yes.

Q And you would agree, then, that the use of restrooms that are in line with a transgender patient's gender identity instead of the sex designated at birth is one component of the social

transition plan?

A Yes, it can be a part of that.

Q And that there are other components of the social transition plan that can be provided or recommended by a mental health provider to treat gender dysphoria?

A Yes.

Q I looked at Exhibit 1B, the WPATH standard of care guidelines, and I don't see in those guidelines where the standard of care refers to the use of restrooms in line with a transgender patient's gender identity instead of the sex recognized at birth. Can you tell me if the WPATH standards of care provide any guidance on the use of restrooms to treat gender dysphoria in transgender individuals?

A I'd have to review it again to look if there's specific mention about restroom use.

Q I'm going to give you that opportunity.

A (Witness reviewing document.)

MR. BLOCK: Jeremy, since it's a long document, can I help?

single user restroom at school instead of the restroom that is consistent with their gender identity, is that medically appropriate?

A If that's the patient's choice, yes.

Q Are you aware of whether there have been any studies or research into how many transgender students would prefer to use a single user restroom instead of the restroom that is consistent with their gender identity?

A I'm not aware of any studies.

Q Are you aware of any scientific or medical research studies into the effect of not permitting a transgender student to use the bathroom consistent with his gender identity in school?

A Not specifically looking at the bathroom.

Q You would agree that if a student, transgender student, is not permitted to use the bathroom consistent with his gender identity in school, there are other methods of social transition that can be used to help treat that

student's gender dysphoria?

A There are a number of components that go into the social transition, and what's required is individual for each person.

Q Are you aware of any medical research or studies into the effect of implementing a plan of gender-affirming care that allows a transgender student to wear the clothing that he wants, to change his name to be consistent with his gender identity, and to be referred to with pronouns consistent with his gender identity but not be permitted to use a restroom consistent with his gender identity at school?

A I don't think that any of the studies have looked at that precise situation. There are studies that have looked at the effect of social transition on transgender health, but I don't know which specific components they addressed.

Q Have you ever treated a transgender student that was not permitted to use the restroom that corresponded with the student's gender identity at school?

Q So what is chest reconstructive surgery?

A So, that can either be in transgender males where they have a mastectomy and all the breast issue is removed and reconstructed to appear more masculine, or in transgender females it can include breast augmentation.

Q Okay. In the situation where there is a mastectomy for a transgender male, is there -- does that procedure create any biological changes in the transgender individual?

A It's just physical changes.

Q And is that treatment part of a medical treatment plan to address the gender dysphoria or distress associated with gender identity?

A It can be, but it is all determined by the individual, whether that's something that they desire.

Q And then you state in paragraph 33 that under the WPATH standards of care there can be genital surgery once they reach the age of majority?

A Yes.

Q What does that mean?

A There are genital surgeries that can be performed to make the external genitalia more similar to the gender identity, and then there are surgeries that can remove the internal genitalia, or the gonads, the testes or the ovaries, to prevent production of those hormones.

Q And so under the WPATH standards of care, surgical gender reassignment procedures cannot be completed until the transgender individual is at least 18 years of age, correct?

A Yes. In general, any surgical procedure that would affect the fertility is held off until 18.

Q I assume as part of your practice you don't perform surgery; is that correct?

A Yes. I don't.

Q So make sure I've got it clear. So if you have -- if a transgender boy has chest reconstructive surgery, they still have the female genitalia in place; is that correct?

A Yes.

Q I think you told me that in the five years that you've been treating transgender patients you have had some patients reach the age of majority?

A Yes.

Q And have any of those patients elected to undergo genital surgery?

A Yes.

Q How many?

A I can think of two.

Q And did you continue to see them after the surgical genital procedure?

A Yes.

Q What was your role?

A Continuing to provide hormone . . .

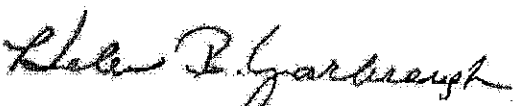
Q And at that time was the hormone therapy that you provided, providing for gender dysphoria, or was it for some other purpose?

A With one of the patients, her gonads were removed; and you, therefore, have to receive sex hormones of some sort to maintain good bone

CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, Helen B. Yarbrough, Registered Professional Reporter, Certified Court Reporter, and Notary Public, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given, to the best of my ability; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; that reading and signing was requested; and that I am neither counsel for, nor related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 17th day of March 2019.



Helen B. Yarbrough, RPR, CCR
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